ISBA/3/FC/WP.1/Rev.1
28 April 1998

ORIGINAL: ENGLISH

INTERNATIONAL SEABED AUTHORITY
Resumed fourth session
Kingston
17-28 August 1998

Revised draft financial regulations of the International Seabed Authority

Introductory note

On 28 July 1994, the General Assembly of the United Nations adopted the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982. The Agreement has been provisionally applied since 16 November 1994 and entered into force on 28 July 1996.

According to the Agreement, its provisions and Part XI of the Convention are to be interpreted and applied together as a single instrument; these Regulations and references in these Regulations to the Convention are to be interpreted and applied accordingly.

Adjustments and additions to these Regulations will be needed when the Authority has sufficient income to meet its administrative expenses from sources other than assessed contributions of the members of the Authority.

Regulation 1

Applicability

1.1 These Regulations shall govern the financial administration of the International Seabed Authority.

1.2 For the purpose of these Regulations:

(a) "Agreement" means the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "Authority" means the International Seabed Authority;

(c) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(d) "member of the Authority" means:

(i) any State Party to the Convention; and

(ii) any provisional member;

(e) "Secretary-General" means the Secretary-General of the International Seabed Authority.

Regulation 2

The financial period

The financial period shall consist of two consecutive years, the first of which shall be an even year.[1]

Regulation 3

The budget

3.1 The proposed budget for each financial period shall be prepared by the Secretary-General.[2]

3.2 The proposed budget shall cover income and expenditure for the financial period to which they relate and shall be presented in United States dollars.

3.3 The proposed budget shall be divided into parts and sections [and, when appropriate, programmes]. The proposed budget shall be accompanied by such information annexes and explanatory statements as may be necessary for the consideration of the budget, including a statement of the main changes in the content in comparison with the previous financial period, as well as its programmatic contents where applicable, and such further annexes or statements as the Secretary-General may deem necessary and useful.

3.4 The Secretary-General shall, in the second year of a financial period, submit his proposed budget for the following financial period to the Council, which shall submit it to the Assembly, together with its recommendations

---

[1] The first two-year period shall cover the years 2000-2001.

[2] To allow for flexibility during the Authority's initial or start-up period, an annual budget shall be submitted by the Secretary-General and adopted by the Assembly for each of the years 1998 and 1999. The first biennial budget would therefore cover the period 2000-2001, unless it is decided otherwise.

thereon. The Secretary-General shall transmit his proposed budget to the members of the Finance Committee at least forty-five days prior to the meeting of the Finance Committee at which the proposed budget is to be considered. The proposed budget shall be transmitted to all members of the Authority at least thirty days prior to the opening of the session of the Council and the Assembly.

3.5 The Finance Committee shall prepare a report to the Council on the budget proposed by the Secretary-General. This report containing the recommendations of the Finance Committee shall be presented to the Council for its consideration.

3.6 The Council shall consider the report of the Finance Committee and submit the proposed budget to the Assembly, with any recommendations. The Assembly shall consider and approve the budget for the following financial period submitted by the Council [, on the understanding that the annual portion of the budget will be appropriated every year prior to the date of commencement of each respective portion in accordance with the provisions of the Convention].

3.7 Decisions by the Assembly and the Council having budgetary or financial implications shall be based on the recommendations of the Finance Committee.

3.8 Supplementary budget proposals may be submitted by the Secretary-General if exceptional circumstances make this necessary.

3.9 Supplementary budget proposals shall be prepared in a form consistent with the approved budget. [The provisions of these Regulations shall be applicable to the proposed supplementary budget to the extent possible.] Decisions of the Council and the Assembly on the supplementary budget proposed by the Secretary-General shall be based on the recommendations of the Finance Committee.

3.10 The Secretary-General may enter into commitments for future financial periods, provided that such commitments:

(a) are for activities which have been approved by the Council or the Assembly and are expected to continue beyond the end of the current financial period; or

(b) are authorized by specific decisions of the Council or the Assembly.

Regulation 4

Appropriations

4.1 The appropriations voted by the Assembly shall constitute an authorization to the Secretary-General to incur obligations and make payments for the purposes for which the appropriations were voted and up to the amounts so voted.

4.2 Appropriations shall be available for obligations during the financial period to which they relate.

4.3 Appropriations shall remain available for twelve months following the end of the financial period to which they relate to the extent that they are required to discharge obligations in respect of goods supplied and services rendered in the financial period and to liquidate any other outstanding legal obligation of the financial period. The balance of the appropriations shall be surrendered.

4.4 At the end of the twelve-month period provided for in regulation 4.3 above, the then remaining balance of any appropriations retained will be surrendered. Any unliquidated obligations of the financial period in question shall, at that time, be cancelled or, where the obligation remains a valid charge, transferred as an obligation against current appropriations.

[4.5 The Secretary-General may, in exceptional cases, effect transfers of funds within the existing sections of the budget and report to the Finance Committee.]

[4.6 The Secretary-General shall prudently manage the appropriations voted for a financial period to ensure that expenditures can be met from the funds available for such a period, taking into account the actual contributions received and the availability of cash balances.]

Regulation 5

Provision of funds

5.1 The funds of the Authority shall include:

(a) assessed contributions made by members of the Authority;

(b) funds received by the Authority pursuant to annex III, article 13, paragraph 2, of the Convention and section 8 of the annex to the Agreement, in connection with activities in the Area;

(c) funds transferred from the Enterprise in accordance with annex IV, article 10, of the Convention;

(d) voluntary contributions made by members or other entities; and

(e) such other funds to which the Authority may become entitled or may receive, including income from investment.

5.2 The appropriations, subject to the adjustments effected in accordance with the provisions of regulation 5.3, shall be financed by contributions from the members of the Authority in accordance with an agreed scale of assessment based upon the scale used for the regular budget of the United Nations until the Authority shall have sufficient income from other sources to meet its administrative expenses. Pending the receipt of such contributions, the appropriations may be financed from the working capital fund.

5.3 For each of the two years of a financial period, the contributions of the members of the Authority shall be assessed on the basis of half of the

appropriations approved by the Assembly for that financial period, except that adjustments shall be made to the assessments in respect of:

(a) supplementary appropriations for which contributions have not previously been assessed on members of the Authority;

(b) half of the estimated miscellaneous income for the financial period for which credits have not previously been taken into account, and any adjustments in estimated miscellaneous income previously taken into account;

(c) contributions resulting from the assessment of new members of the Authority under the provisions of regulation 5.9;

(d) any balance of the appropriations surrendered under regulations 4.3 and 4.4.

5.4 After the Assembly has adopted or revised the budget and determined the amount of the working capital fund, the Secretary-General shall:

(a) transmit the relevant documents to the members of the Authority;

(b) inform the members of the Authority of their contributions in respect of annual contributions and advances to the working capital fund; and

(c) request them to remit their contributions and advances.

5.5 Contributions and advances shall be considered as due and payable in full within thirty days of the receipt of the communication of the Secretary-General referred to in regulation 5.4 above, or as of the first day of the calendar year to which they relate, whichever is the later. As of 1 January of the following calendar year, the unpaid balance of such contributions and advances shall be considered to be one year in arrears.

5.6 Annual contributions and advances to the working capital fund shall be assessed and paid in United States dollars.

5.7 Payments made by a member of the Authority shall be credited first to the working capital fund and then to the contributions due, in the order in which the member was assessed.

5.8 The Secretary-General shall submit to each regular session of the Assembly, the Council and the Finance Committee a report on the collection of contributions and advances to the working capital fund.

5.9 New members shall be required to make a contribution for the year in which they become members of the Authority and to provide their proportion of the total advances to the working capital fund at rates to be determined by the Assembly.

[5.10 States and entities which are not members of the Authority but which participate in its activities shall contribute to the expenses of the Authority at rates to be determined by the Assembly, unless the Assembly decides with

respect to any such State or entity to exempt it from the requirement of so contributing. Such contributions shall be taken into account as miscellaneous income.]

Regulation 6

Funds

6.1 There shall be established a general administrative fund for the purpose of accounting for the administrative expenditures of the Authority. The contributions paid under regulation 5.1 by members of the Authority, income from the Enterprise, miscellaneous income and any advances made from the working capital fund to finance administrative expenditure shall be credited to the general administrative fund.

6.2 There shall be established a working capital fund in an amount and for the purposes to be determined from time to time by the Assembly. The source of moneys of the working capital fund shall be advances from members of the Authority until the Authority shall have sufficient income from other sources to meet its administrative expenses, and these advances, made in accordance with an agreed scale of assessment based upon the scale used for the regular budget of the United Nations, shall be carried to the credit of members which have made such advances.

6.3 Advances made from the working capital fund to finance budgetary appropriations shall be reimbursed to the fund as soon as income is available for that purpose.

6.4 Income derived from investments of the working capital fund shall be credited to miscellaneous income.

6.5 Trust funds, reserve and special accounts may be established by the Secretary-General and shall be reported to the Finance Committee.

6.6 The purpose and limits of each trust fund, reserve and special account shall be clearly defined by the appropriate authority. Unless otherwise provided by the Assembly, such funds and accounts shall be administered in accordance with the present Regulations.

6.7 The administrative expenses of the Authority shall be a first call upon the funds of the Authority. Except for the assessed contributions referred to in regulation 5.1 (a), the funds which remain after payment of administrative expenses may, inter alia:

(a) be shared in accordance with article 140 and article 160, paragraph 2 (g), of the Convention;

(b) be used to provide the Enterprise with funds in accordance with article 170, paragraph 4, of the Convention; and

(c) be set aside for the purposes of the economic assistance fund referred to in paragraph 1 (a) of section 7 of the annex to the Agreement.[3]

6.8 There shall be established an economic assistance fund in accordance with paragraph 1 (a) of section 7 of the annex to the Agreement. The amount set aside for this purpose shall be determined by the Council from time to time, upon the recommendation of the Finance Committee. Only funds from payments received from contractors, including the Enterprise, and voluntary contributions shall be credited to the economic assistance fund.[4]

Regulation 7

Other income

7.1 All other income except:

(a) contributions to the budget;

(b) funds received by the Authority pursuant to annex III, article 13, paragraph 2, of the Convention and section 8 of the annex to the Agreement, in connection with activities in the Area;

(c) funds transferred from the Enterprise in accordance with annex IV, article 10, of the Convention;

(d) voluntary contributions made by members or other entities;

(e) payments to the economic assistance fund, in accordance with paragraph 1 (a) of section 7 of the annex to the Agreement;

(f) direct refunds of expenditures made during the financial period;

(g) advances or deposits to funds; and

(h) revenue derived from the Staff Assessment Plan,

shall be classed as miscellaneous income, for credit to the General Administrative Fund.

7.2 Voluntary contributions, whether or not in cash, may be accepted by the Secretary-General provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Authority, and provided that the acceptance of such contributions which directly or indirectly involve additional financial liability for the Authority shall require the consent of the appropriate authority.

---

[3] This provision will need to be elaborated in due time.

[4] This provision will need to be elaborated in due time.

7.3 Moneys accepted for purposes specified by the donor shall be treated as trust funds or special accounts under regulations 6.6 and 6.7.

7.4 Moneys accepted in respect of which no purpose is specified shall be treated as miscellaneous income and reported as "gifts" in the accounts of the financial period.

Regulation 8

Custody of funds

The Secretary-General shall designate the bank or banks in which the funds of the Authority shall be kept.

Regulation 9

Investment of funds

9.1 The Secretary-General may make short-term investments of moneys not needed for immediate requirements and shall inform the Finance Committee periodically of such investments which he or she has made.

9.2 The Secretary-General may, after consultations with an investment counsellor, make long-term investments of moneys standing to the credit of trust funds, reserve and special accounts, except as may be otherwise provided by the appropriate authority in respect of each such fund or account and having regard to the particular requirements as to the liquidity of funds in each case.

9.3 Income derived from investments shall be credited as provided in the rules relating to each fund or account.

Regulation 10

Internal control

10.1 The Secretary-General shall:

(a) establish detailed financial rules and procedures in order to ensure effective financial administration and the exercise of economy;

(b) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the services or goods have been received and that payments have not previously been made;

(c) designate the officers who may receive moneys, incur obligations and make payments on behalf of the Authority;

(d) maintain an internal financial control which shall provide for an effective current examination and/or review of financial transactions in order to ensure:

(i) the regularity of the receipt, custody and disposal of all funds and other financial resources of the Authority;

(ii) the conformity of obligations and expenditures with the appropriations or other financial provisions voted by the Assembly, or with the purposes and rules relating to trust funds and special accounts;

(iii) the economic use of the resources of the Authority.

10.2 Obligations for the current financial period or commitments for current and future financial periods shall be incurred only after allotments or other appropriations have been made in writing under the authority of the Secretary-General.

10.3 The Secretary-General may make such ex gratia payments as he or she deems to be necessary in the interest of the Authority, provided that a statement of such payments shall be submitted to the Assembly with the accounts.

10.4 The Secretary-General may, after full investigation, authorize the writing-off of losses of cash, stores and other assets, provided that a statement of all such amounts written off shall be submitted to the Auditor with the accounts together with the justifications attached thereto.

10.5 Tenders for equipment, supplies and other requirements shall be invited by advertisement, except where the Secretary-General deems that, in the interests of the Authority, a departure from the rules is desirable.

Regulation 11

The accounts

11.1 The Secretary-General shall submit accounts for the financial period. In addition, the Secretary-General shall maintain, for management purposes, such accounting records as are necessary, including interim accounts for the first calendar year of the financial period. Both interim accounts and the accounts for the financial period shall show:

(a) the income and expenditures of all funds;

(b) the status of appropriations, including:

(i) the original budget appropriations;

(ii) the appropriations as modified by any transfers;

(iii) credits, if any, other than the appropriations voted by the Assembly;

(iv) the amounts charged against those appropriations and/or other credits;

(c) the assets and liabilities of the Authority.

The Secretary-General shall also give such other information as may be appropriate to indicate the current financial position of the Authority.

11.2 The accounts of the Authority shall be presented in United States dollars. Accounting records may, however, be kept in such currency or currencies as the Secretary-General may deem necessary.

11.3 Appropriate separate accounts shall be maintained for all trust funds, reserve and special accounts.

11.4 The accounts for the financial period shall be submitted by the Secretary-General to the Auditor not later than 31 March following the end of the financial period.

Regulation 12

Audit

12.1 The Assembly shall appoint an internationally recognized independent auditor. The independent auditor shall be appointed for a period of four years and may be reappointed for one term.

12.2 The audit shall be conducted in conformity with generally accepted common auditing standards and, subject to any special directions of the Assembly, in accordance with the additional terms of reference set out in the annex to the present regulations.

12.3 The Auditor may make observations with respect to the efficiency of the financial procedures, the accounting system, the internal financial controls and, in general, the administration and management of the Authority.

12.4 The Auditor shall be completely independent and solely responsible for the conduct of the audit.

12.5 The Finance Committee may request the Auditor to perform certain specific examinations and issue separate reports on the results.

12.6 The Secretary-General shall provide the Auditor with the facilities he or she may require in the performance of the audit.

12.7 The Auditor shall issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period, which shall include such information as the Auditor deems necessary with regard to matters referred to in regulation 12.3 and in the additional terms of reference.

12.8 The Finance Committee shall examine the financial statements and the audit reports and shall forward them to the Council and the Assembly, with such comments as it deems appropriate.

Regulation 13

Resolutions involving expenditures

13.1 No organ or subsidiary body of the Authority shall take a decision involving either a change in the budget approved by the Assembly or the possible requirement of expenditure unless it has received and taken account of recommendations of the Finance Committee on the statement of the Secretary-General on the budget implications of the proposal.

13.2 Where, in the opinion of the Secretary-General, the proposed expenditure cannot be made from existing appropriations, it shall not be incurred until the Assembly has made the necessary appropriations.

Regulation 14

General provisions

14.1 These regulations shall become effective on _____ and shall apply to the financial period therefrom and to subsequent financial periods. They may be amended only by the Assembly.

Annex

ADDITIONAL TERMS OF REFERENCE GOVERNING
THE AUDIT OF THE AUTHORITY

1. The Auditors shall perform the audits of the accounts of the Authority, including all trust funds and special accounts, as they deem necessary in order to satisfy themselves:

(a) that the financial statements are in accord with the books and records of the Authority;

(b) that the financial transactions reflected in the statements have been in accordance with the financial rules and regulations, the budgetary provisions and other applicable directives;

(c) that the securities and moneys on deposit and on hand have been verified by certificates received direct from the Authority's depositaries or by actual count;

(d) that the internal controls, including internal oversight, are adequate in light of the extent of reliance placed thereupon.

2. The Auditors shall be the sole judge as to the acceptance in whole or in part of certifications and representations by the Secretary-General and may proceed to such detailed examination and verification as they choose of all financial records, including those relating to supplies and equipment.

3. The Auditors and their staff shall have free access at all convenient times to all books, records and other documents which are, in the opinion of the Auditors, necessary for the performance of the audit. The Auditors shall be responsible for the work done by such supporting staff in the conduct of auditing. Information which is classified as privileged and which the Secretary-General (or the Secretary-General's designated senior official) agrees is required by the Auditors for the purposes of the audit and information classified as confidential shall be made available on application. The Auditors and their staff shall respect the privileged and confidential nature of any information so classified which has been made available and shall not make use of it except in direct connection with the performance of the audit. The Auditors may draw the attention of the Assembly to any denial of information classified as privileged which, in their opinion, was required for the purpose of the audit.

4. The Auditors shall have no power to disallow items in the accounts but shall draw to the attention of the Secretary-General for appropriate action any transaction concerning which they entertain doubt as to legality or propriety. Audit objections, to these or any other transactions, arising during the examination of the accounts shall be communicated immediately to the Secretary-General.

5. The Auditors (or such of their officers as they may designate) shall express and sign an opinion on the financial statements which shall read as follows:

> "We have examined the following appended financial statements, numbered ..... to ..... , properly identified, and relevant schedules of (name of the body) for the financial period ended 31 December 19 . Our examination included a general review of the accounting procedures and such tests of the accounting records and other supporting evidence as we considered necessary in the circumstances.",

And which shall state, as appropriate, whether:

(a) the financial statements present fairly the financial position as at the end of the period and the results of its operations for the period then ended;

(b) the financial statements were prepared in accordance with the stated accounting principles;

(c) the accounting principles were applied on a basis consistent with that of the preceding financial period;

(d) transactions were in accordance with the financial regulations and legislative authority.

6. The report of the Auditors to the Assembly on the financial operations of the period should mention:

(a) the type and scope of their examination;

(b) matters affecting the completeness or accuracy of the accounts, including, where appropriate:

(i) information necessary to the correct interpretation of the accounts;

(ii) any amounts which ought to have been received but which have not been brought to account;

(iii) any amounts for which a legal or contingent obligation exists and which have not been recorded or reflected in the financial statements;

(iv) expenditures not properly substantiated;

(v) whether proper books of accounts have been kept - where in the presentation of statements there are deviations of a material nature from the generally accepted accounting principles applied on a consistent basis, these should be disclosed;

(c) other matters which should be brought to the notice of the Assembly, such as:

(i) cases of fraud;

(ii) wasteful or improper expenditure of the Authority's money or other assets (notwithstanding that the accounting for the transaction may be correct);

(iii) expenditure likely to commit the Authority to further outlay on a large scale;

(iv) any defect in the general system or detailed regulations governing the control of receipts and disbursements or of supplies and equipment;

(v) expenditure not in accordance with the intention of the Assembly after making allowance for duly authorized transfers within budget;

(vi) expenditure in excess of appropriations as amended by duly authorized transfers within the budget;

(vii) expenditure not in conformity with the authority which governs it;

(d) the accuracy or otherwise of the supplies and equipment records as determined by stock-taking and examination of the records;

(e) if appropriate, transactions accounted for in a previous period concerning which further information has been obtained or transactions in a later period concerning which it seems desirable that the Assembly should have early knowledge.

7. The Auditors may make such observations with respect to their findings resulting from the audit and such comments on the Secretary-General's financial report as they deem appropriate to the Assembly or to the Secretary-General.

8. Whenever the scope of audit of the Auditors is restricted, or whenever they are unable to obtain sufficient evidence, the Auditors shall refer to the matter in their opinion and report, making clear in the report the reasons for their comments and the effect on the financial position and the financial transactions as recorded.

9. In no case shall the Auditors include criticism in their report without first affording the Secretary-General an adequate opportunity of explanation on the matter under observation.

10. The Auditors are not required to mention any matter referred to in the foregoing that, in their opinion, is insignificant in all respects.